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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,702	07/23/2003	Michelle A. Wagner		7050

7590 07/11/2005

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Suite 416  
316 N. Michigan Street  
Toledo, OH 43624

EXAMINER

BROWN, VERNAL U

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Sm

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/624,702	WAGNER, MICHELLE A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vernal U. Brown	2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The application of Michelle Wagner for Portable Surface Member For Conducting Exercises of Individuals filed July 23, 2003 has been examined. Claims 1-5 are pending.

#### ***Specification***

The abstract of the disclosure is objected to because it includes improper language such as "The subject invention". See MPEP 08.01(b). The phrase "The subject invention" is implied and should be avoided. Applicant is reminded of the proper language and format for an abstract of the disclosure.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sieg US Patent 3641601 in view of Saur et al. US Patent 6110073 and further in view of Iwasa US Patent 6378540.

Regarding claims 1-3, Sieg teaches a portable mat for walking maneuvers over the upper surface having means thereon for the walking maneuvers thereon (col. 1 lines 68-75), comprising: (a) a longitudinally extending mat member (29) having an upper surface and a lower surface, said mat member having a first lateral edge and a second lateral edge, said mat member having a first end edge and a second end edge (*the sheet 29 is rectangular in shape as shown in figure 1 and inherently include a upper and lower surfaces and lateral edges*). Sieg is silent on teaching a longitudinally extending marking member extending from said first end edge to said second end edge, said marking member being for walking maneuvers over the upper surface of said mat member, said marking member extending above the upper surface of the mat member and said marking member having a luminous coating on the upper surface thereof. Saur et al. teaches an exercise mat having longitudinally extending marking members (18) extending from said first end edge to said second end edge (figure 1), said marking member being for walking maneuvers over the upper surface of said mat member, said marking member extending above the upper surface of the mat member (col. 5 lines 26-35). The first lateral edge been thicker than the second edge is considered a design choice. Saur et al. teaches the markings are illuminated (col. 6 lines 37-40) but is silent on teaching the marking member having a luminous coating on the upper surface. One skilled in the art recognizes that a luminous coating such as a luminous

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paint is conventionally used as a luminous source as evidenced by Iwasa (col. 13 lines 61-64) in order to provide visibility.

It would have been obvious to one of ordinary skill in the art to have longitudinally extending marking member extending from the first edge to second edge, said marking member being for walking maneuvers over the upper surface of said mat member, said marking member extending above the upper surface of the mat member and said marking member having a luminous coating on the upper surface in Sieg as evidenced by Saur et al. in view of Iwasa because Saur et al. suggests a portable mat for performing walking exercise and Saur et al teaches a mat with marking and illumination for performing walking maneuvers and one skilled in the art recognizes that a luminous coating such as a luminous paint is conventionally used as a luminous source as evidenced by Iwasa in order to provide visibility.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sieg US Patent 3641601 in view of Saur et al. US Patent 6110073 in view of Iwasa US Patent 6378540 and further in view of Furtmayer US Patent 5144847.

Regarding claims 1-3, Sieg teaches a portable mat for walking maneuvers over the upper surface having means thereon for the walking maneuvers thereon (col. 1 lines 68-75), comprising: (a) a longitudinally extending mat member (29) having an upper surface and a lower surface, said mat member having a first lateral edge and a second lateral edge, said mat member having a first end edge and a second end edge (*the sheet 29 is rectangular in shape as shown in figure 1 and inherently include a upper and lower surfaces and lateral edges*). Sieg is silent on teaching a longitudinally extending marking member extending from said first end edge to said

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second end edge, said marking member being for walking maneuvers over the upper surface of said mat member, said marking member extending above the upper surface of the mat member and said marking member having a luminous coating on the upper surface thereof. Saur et al. teaches an exercise mat having longitudinally extending marking members (18) extending from said first end edge to said second end edge (figure 1), said marking member being for walking maneuvers over the upper surface of said mat member, said marking member extending above the upper surface of the mat member (col. 5 lines 26-35). Saur et al. teaches electromechanical pressure sensor means for detecting the pressure (col. 4 lines 34-38) but is also teaching spring members connected to the electromechanical sensors and the markings comprises a luminous coating. Furtmayer in an art related pressure sensing device teaches the use of springs connected to sensor (col. 2 lines 44-55) for detecting pressure and one skilled in the art recognizes that a luminous coating such as a luminous paint is conventionally used as a luminous source as evidenced by Iwasa (col. 13 lines 61-64) in order to provide visibility.

It would have been obvious to one of ordinary skill in the art to have longitudinally extending marking member extending from the first edge to second edge, said marking member being for walking maneuvers over the upper surface of said mat member, said marking member extending above the upper surface of the mat member and said marking member having a luminous coating on the upper surface in Sieg as evidenced by Saur et al. in view of Iwasa in view of Furtmayer because Saur et al. suggests a portable mat for performing walking exercise and Saur et al teaches a mat with marking and illumination for performing walking maneuvers and one skilled in the art recognizes that a luminous coating such as a luminous paint is conventionally used as a luminous source as evidenced by Iwasa in order to provide visibility.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U. Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vernal Brown  
July 7, 2005

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